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DISTRICT OF OREGON

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

THE CONFEDERATED TRIBES OF SILETZ )  
INDIANS OF OREGON, )

Plaintiff, )

and )

UNITED STATES OF AMERICA, )

Intervenor-Plaintiff, )

v. )

STATE OF OREGON, )

Defendant. )

CIVIL NO. 80-433

FINAL DECREE & ORDER

Based on the Findings of Fact and Conclusions of Law herein, entered  
this date, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. The Agreement Among the State of Oregon, the United States of  
America and the Confederated Tribes of the Siletz Indians of Oregon to Permanently  
Define Tribal Hunting, Fishing, Trapping and Gathering Rights of the Siletz Tribe  
and Its Members dated April 22, 1980, a copy of which is attached hereto as Attach-  
ment A and hereby made a part of this Decree, is hereby approved as a final settle-  
ment of the claims and contentions of the Confederated Tribes of Siletz Indians of  
Oregon and of the United States of America as trustee for said Tribe and its  
members raised in the complaints filed herein, and the terms and conditions of said  
Agreement are hereby adopted as the Order of this court in this cause.

Indian Resources Sec.  
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1           2. The State of Oregon, the Oregon Department of Fish and Wildlife,  
2 the Department of Justice of the State of Oregon, the Oregon State Police, any  
3 successor agencies or officials of the State of Oregon to said agencies and their  
4 officers, agents, servants, employees, attorneys and any person acting under their  
5 authority and direction are hereby permanently ordered and enjoined to carry out all  
6 obligations agreed to on behalf of the State of Oregon and said agencies in said  
7 Agreement.

8           3. The Confederated Tribes of Siletz Indians of Oregon, any successor  
9 entity thereto, their members, and the United States of America as trustee for the  
10 Confederated Tribes of Siletz Indians of Oregon and its members, any officer,  
11 agent, servant, employee, or attorney of either thereof, and any persons in active  
12 concert or participation with any of them who receive actual notice of this Order  
13 by personal service or otherwise are hereby permanently enjoined from asserting or  
14 prosecuting any claim for tribal hunting, fishing, trapping or gathering rights of  
15 said Tribe or its members other than as such rights are specified and limited by the  
16 terms and provisions of said Agreement.

17           4. Nothing in this Order shall prevent any party hereto or any successor  
18 to such party from bringing any action necessary to enforce or secure the observ-  
19 ance of the provisions of said Agreement.

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5. Each party shall bear its own costs in this action.

DATED this 2nd day of May, 1980.

James M. Burns  
JAMES M. BURNS  
United States District Judge

PRESENTED BY:

Sharon Gordon  
SHARON GORDON  
Attorney for the Confederated Tribes  
of Siletz Indians of Oregon

George D. Dysart  
GEORGE D. DYSART, Attorney for  
United States of America

Beverly B. Hall  
BEVERLY B. HALL  
Assistant Attorney General  
Attorney for State of Oregon

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U. S. DISTRICT COURT,  
DISTRICT OF OREGON

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U. S. DISTRICT COURT,  
DISTRICT OF OREGON

**FILED**

MAY 2 1980

5-2-80  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

THE CONFEDERATED TRIBES OF SILETZ  
INDIANS OF OREGON,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Intervenor-Plaintiff,

v.

STATE OF OREGON,

Defendant.

CIVIL NO. 80-433

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Upon motion of each of the parties hereto and being fully advised, and after open hearing thereon, the court hereby makes the following Findings of Fact and Conclusions of Law:

1. Plaintiff Confederated Tribes of Siletz Indians of Oregon (hereinafter referred to as "the Tribe") is a congressionally recognized tribe of native American Indians having a governing body duly recognized by the Secretary of the Interior and located and headquartered within the State of Oregon and is lawfully entitled to represent and act on behalf of its members with respect to the subject matter of this case. P.L. 95-195, 91 Stat. 1415.

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Indian Resources Sec.

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1           2. The Tribe claims to own, for the benefit of itself and  
2     its members present and future, tribal hunting, fishing, trapping  
3     and gathering rights on lands and waters within the State of Oregon  
4     that are secured by or protected under federal law from infringement  
5     or control by the State of Oregon and has asserted its desire and  
6     intent to exercise, and to authorize its members to exercise, such  
7     rights free of restriction or control by the State except to the  
8     extent such state claim of authority may be determined or upheld by  
9     a binding order or decree of a court of the United States. Oppor-  
10    tunity to harvest fish, wildlife and seafood resources of the region  
11    has long been and continues to be of considerable cultural and sub-  
12    sistence significance to the Tribe and its members.

13           3. The State of Oregon denies the Tribe's claim to such hunt-  
14    ing, fishing, trapping or gathering rights and asserts its sovereign  
15    authority to manage and regulate the taking of fish and wildlife  
16    by the Tribe and its members including but not limited to the fish  
17    and wildlife that are the subject of the Tribe's claim or are lo-  
18    cated on lands within Oregon of the Tribe or its members. The  
19    State has applied its fish and game laws to the taking of fish and  
20    wildlife by members of the Tribe whether acting individually or as  
21    agents or representatives of the Tribe to the same extent and in  
22    the same manner as it applies said laws to such taking by all per-  
23    sons under its jurisdiction and the State asserts its right and in-  
24    tent to continue to so apply and enforce its laws and regulations  
25    in the absence of a binding judicial determination of its lack of  
26    authority to do so. Such state enforcement can result in criminal  
27    prosecutions of, and the imposition of criminal fines and  
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OF LAW

1 imprisonment against, members of the Tribe who attempt to exercise  
2 the Tribe's claimed rights in a manner contrary to state law.

3 4. Many of the species of fish and game that are the subject  
4 matter of the Tribe's claim of right asserted hereunder are present-  
5 ly in such fragile condition of existence and preservation as to re-  
6 quire the prompt and unimpeded imposition of regulatory controls over  
7 their harvest or other disturbance. This fact is acknowledged by  
8 all parties hereto and these parties desire that the controversy  
9 among them over the existence, nature and extent of the Tribe's  
10 claimed rights be resolved without lengthy and costly litigation of  
11 uncertain outcome and without the interim exertion of harvest  
12 pressure on the resource on the one hand, or denial of harvest op-  
13 portunity on the other, that may subsequently be determined to have  
14 been inappropriate or unlawful.

15 5. The parties hereto, in a good faith effort to avoid such  
16 lengthy, costly and uncertain litigation, have conducted extensive  
17 negotiations for a settlement agreement that will define and pro-  
18 vide for an agreed manner of exercise of tribal hunting, fishing, ~~tr~~  
19 trapping and gathering activities under claim of tribal right. In  
20 so doing each of the parties has been advised by its own competent  
21 legal counsel who are experienced and highly knowledgeable in the  
22 law of Indian fishing and hunting rights. Such counsel and the  
23 court are in agreement that existing judicial and other legal pre-  
24 cedents leave the outcome of the existing legal controversy uncer-  
25 tain in the absence of either a protracted pretrial and trial en-  
26 deavor or a negotiated settlement.

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OF LAW


6. The settlement agreement which the parties have executed, and which each of the parties has joined in asking the court to approve and decree as a settlement of this litigation, has been discussed at hearings for tribal members held by the Tribe and at public hearings held by the Oregon Department of Fish and Wildlife.

7. The members of the Tribe have adopted a constitution and established a tribal government in order to, among other specified purposes, "protect our inherent rights as Indians and as a sovereign Indian tribe," "maintain good relationships with . . . the State of Oregon . . .," and "acquire, develop, and conserve resources . . ." That constitution has been adopted by the members and approved by the Secretary of the Interior pursuant to federal statute, namely, the Indian Reorganization Act of 1934, 48 Stat. 987, as made applicable to the Tribe by the Siletz Indian Tribe Restoration Act, 91 Stat. 1415. That constitution provides that the authority of the tribal government shall extend over all persons, subjects and property now or hereafter included within the jurisdiction of the Tribe. The Tribe's constitution empowers the Tribal Council of the Tribe "to exercise all legislative and executive authority of the [tribal] government." The Tribal Council has approved and adopted the agreement contained in Attachment A of the Final Decree in this case.

8. This court has jurisdiction over the parties hereto and over the subject matter of this litigation. 28 U.S.C. §§ 1345, 1362. The complaint states a cause of action for which declaratory and injunctive relief may be sought under 28 U.S.C. §§ 2201 and 2202.

DATED this 2nd day of May, 1980.

(Page 5 follows)

  
JAMES M. BURNS  
United States District Judge

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1 THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW

2 PRESENTED BY:

3 *Sharon Gordon*  
4 SHARON GORDON  
5 Attorney for the Confederated Tribes  
6 of Siletz Indians of Oregon

7 *George D. Dysart*  
8 GEORGE D. DYSART, Attorney for  
9 United States of America

10 *Beverly B. Hall*  
11 BEVERLY B. HALL  
12 Assistant Attorney General  
13 Attorney for State of Oregon  
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